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Fish and Game Commission



Sonke Mastrup, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
(916) 653-5040 Fax
www.fgc.ca.gov

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March 24, 2014

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 28.20, Title 14, California Code of Regulations, relating to Pacific halibut sport fishing, which will be published in the California Regulatory Notice Register March 28, 2014.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Dr. Craig Shuman, Regional Manager, Department of Fish and Wildlife, telephone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 205.1, 219, 220 and 316 of the Fish and Game Code, and Statutes 2013, Chapter 233, Section 1, and to implement, interpret or make specific sections 200, 201, 202, 203.1, 205, 205.1, 207, 210, 215, 219, 220 and 316 of the Fish and Game Code, Statutes 2013, Chapter 233, Section 1, and Title 50, Code of Federal Regulations, Subpart E of Part 300, sections 300.60, 300.61, 300.62, 300.63 and 300.66, proposes to amend Section 28.20, Title 14, California Code of Regulations, relating to Pacific halibut sport fishing.

Informative Digest/Policy Statement Overview

Pacific halibut along the United States west coast is jointly managed through authorities of the International Pacific Halibut Commission (IPHC), Pacific Fishery Management Council (Council), and the National Marine Fisheries Service (NMFS), in conjunction with west coast state agencies. The Council coordinates west coast management of all recreational and commercial Pacific halibut fisheries in U.S. waters through the Pacific Halibut Catch Sharing Plan (CSP), which constitutes a framework for recommending annual management measures. NMFS is then responsible for specifying the final measures in federal regulation [Title 50, Code of Federal Regulations (CFR), Subpart E of Part 300 and the Federal Register]. These federal regulations (rules) are applicable in the Federal Exclusive Economic Zone (3 to 200 miles offshore) off Washington, Oregon and California.

For species managed under federal fishery management plans or regulations, the Commission has usually taken concurrent action to conform State recreational regulations to federal regulations that have been adopted through an open and deliberative federal rulemaking process.

Under a new California law [Fish and Game Code, Section 205.1 (Statutes of 2013, Chapter 233)], the Commission now has authority to establish - through regulation - an automatic process to conform State sport fishing regulations applicable in State waters (zero to three miles offshore) to federal regulations for federally managed species, which include Pacific halibut.

Current State regulations [Section 28.20, Title 14, California Code of Regulations (CCR)] authorize recreational fishing for Pacific halibut in California waters from May 1 to October 31. The daily bag limit is one fish per angler and there is no minimum size limit.

The proposed amendments to the regulations would replace the current text of Section 28.20, Title 14, CCR, with new language that would describe the process through which State sport fishing regulations for Pacific halibut will conform to federal sport fishing regulations for Pacific halibut in federal waters of the ocean off California.

Benefits of the Regulation

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities to participate in sport fisheries fosters conservation through education and appreciation of wildlife.

The Commission anticipates benefits to the environment by the sustainable management of California's Pacific halibut resources.

Additional benefits of the proposed regulations are concurrence with federal law, and promotion of businesses that rely on recreational Pacific halibut fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations in general (Fish and Game Code, sections 200, 202 and 205); Pacific halibut sport fishing regulations specifically (Fish and Game Code, Section 316); and an automatic process to conform State sport fishing regulations to federal regulations for federally managed species, including Pacific halibut (Fish and Game Code, Section 205.1). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Pacific halibut.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Crowne Plaza Ventura Beach Hotel, 450 E. Harbor Blvd., Ventura, California, on Wednesday, April 16, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the River Lodge Conference Center, 1800 Riverwalk Drive, Fortuna, California, on Wednesday, June 4, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 22, 2014 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. May 30, 2014. All comments must be received no later than June 4, 2014, at the hearing in Fortuna, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number.

Craig Shuman, Regional Manager, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption.

Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the regulatory action does not substantially alter existing conditions.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs in California.

The Commission does not anticipate any impacts on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities to participate in sport fisheries fosters conservation through education and appreciation of wildlife.

The Commission anticipates benefits to the environment by the sustainable management of California's Pacific halibut resources.

The Commission does not anticipate any benefits to worker safety.

Additional benefits of the proposed regulations are concurrence with federal law, and promotion of businesses that rely on recreational Pacific halibut fishing.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This action would result in potential savings to the State in the form of reduced annual rulemaking activities and associated personnel and monetary costs incurred to accomplish those activities needed to align State and federal regulations.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: March 17, 2014

Sonke Mastrup
Executive Director